

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA GAS COMPANY In Compliance with Resolution G-3334 For a System of Firm, Tradable Receipt Point Capacity Rights and Related Provisions. (U 904 G)

Application 03-06-040
(Filed June 30, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
ADDRESSING NOTICES OF INTENT TO CLAIM COMPENSATION
AS REQUIRED BY PUB. UTIL. CODE § 1804(b)**

I. Summary

The Utility Reform Network (TURN) filed a Notice of Intent (NOI) to claim compensation in this proceeding. No other party has filed a statement responding to the NOI. As required by Pub. Util. Code § 1804(b),¹ and in consultation with the assigned Commissioner, I find TURN is eligible for compensation.

This finding necessarily precedes, but does not guarantee, a compensation award to TURN following issuance of the Commission's decision. In order to receive compensation, TURN must make a substantial contribution to the adoption, in whole or in part, of the Commission's order or decision; and TURN

¹ All statutory references are to the Public Utilities Code unless specifically noted otherwise.

must also demonstrate that its participation or intervention without an award of fees or costs imposes a significant financial hardship (§ 1803(a) and (b)).

II. Eligibility Requirements

A customer who intends to seek a compensation award must file and serve its NOI within 30 days after the prehearing conference (PHC) is held.

(§ 1804(a)(1).) The NOI must include a statement of the nature and extent of the customer's planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed; and an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time. (§ 1804(a)(2)(A).) The NOI may also include a showing that the customer's participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, the customer must include the significant financial hardship showing in its compensation request following issuance of the commission's decision. (§ 1804 (a)(2)(B).)

A. Customer Status

The Commission also requires that the participant include in its NOI a showing that it meets the statutory definition of "customer," either as a participant representing consumers; a representative authorized by a customer; or a representative of a group or organization authorized by its articles of incorporation or bylaws to represent the interests of residential customers (§ 1802(b)). A group or organization should provide a copy of its articles or bylaws, demonstrating that it is authorized to represent the interests of residential ratepayers. (Decision (D.) 98-04-059, Conclusion of Law (COL) 5.) In addition, in its NOI the intervenor must show that it will represent customer interests that would otherwise be underrepresented. (D.98-04-059, Finding of Fact (FOF) 13.)

TURN, a non-profit consumer advocacy organization, has a long history of representing the interests of residential and small commercial customers before the Commission. In response to the Commission's desire that groups submitting NOIs indicate the percentage of their membership that are residential ratepayers,² TURN states that the vast majority of its approximately 30,000 dues paying members fall into this category. TURN is a "group or organization authorized by its articles of incorporation³ or bylaws to represent the interests of residential ratepayers." As such it qualifies as a customer under § 1802(b).

TURN also addresses the Commission's concern, expressed in D.98-04-059, that an intervenor represent customer interests that would be underrepresented in the proceeding, absent the statutory compensation award (D.98-04-059, FOF 13). TURN notes that, like the Office of Ratepayer Advocates (ORA), it represents ratepayer interests, but argues that it alone represents the interests of residential and small commercial customers. Further TURN states that it will coordinate with ORA and other parties to minimize duplication of effort.

² D.98-04-059, FOF 12.

³ TURN has submitted a copy of the relevant sections of these articles of incorporation to the Commission as required by D.98-04-059, mimeo., p. 30. (See TURN's NOI filings in Application (A.) 98-02-017 and A.99-12-024.

B. The Timeliness of the NOI Filings (§ 1804 (a)(1))

The PHC in this matter was held on August 8, 2003 and TURN filed its NOI on September 8, 2003, 30 days following the PHC.⁴ Thus TURN's NOI satisfies § 1804(a)(1), and is timely.

⁴ Due to the intervening weekend, the 30-day deadline pursuant to Rule 3.2 falls on September 8, 2003.

C. The Nature and Extent of Planned Participation (§ 1804(a)(2)(A)(i))

TURN plans to be an active party and address whether SoCalGas' proposed implementation plan complies with the Commission's directions in Resolution G-3334 and adequately addresses changed market conditions since the Comprehensive Settlement Agreement (CSA) was adopted in D.01-12-018. TURN is particularly concerned about the effect on core customers of changes due to FERC restructuring of El Paso and due to termination of certain core gas supplies, and whether these, and other, market changes warrant modification to the terms of the CSA.

D. Itemized Estimate of Compensation Request (§ 1804(a)(2)(A)(ii))

TURN has provided an itemized estimate of \$49,200 for compensation, assuming approximately one week of evidentiary hearing to address factual issues in dispute. This estimate includes \$36,000 for attorney Marcel Hawiger (160 hours at an hourly rate of \$225); \$7,700 for attorney Michel Florio (20 hours at an hourly rate of \$385); \$5,000 for consultant expenses (hours and hourly rate unspecified); and \$500 in other direct expenses. TURN will address the reasonableness of the actual hourly rates requested for its representatives in its compensation request.

E. Significant Financial Hardship Showing (§ 1804 (a)(2)(B))

TURN has included its showing of significant financial hardship in its NOI. TURN relies on the statutory provision that: "A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding." (§ 1804(b)(1).) TURN received a finding of significant financial hardship in a ruling issued March 25, 2003 in Rulemaking 02-07-050.

This proceeding commenced in June 2002, a period within one year of the date of that finding, so the rebuttable presumption applies.

III. Eligibility Findings

Based on their customer status under § 1802(b) and their compliance with § 1804, TURN is eligible for compensation in this proceeding.

IT IS RULED that:

1. The Notice of Intent (NOI) of The Utility Reform Network (TURN) is timely under Pub. Util. Code § 1804(a).
2. TURN is a customer as that term is used in § 1802(b), as it has shown that it is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.
3. TURN has met the eligibility requirements of § 1804(a), including the requirement to establish significant financial hardship; thus it is eligible for compensation in this proceeding.
4. A finding of eligibility necessarily precedes, but does not guarantee, an award of compensation to TURN.
5. TURN shall make every effort to reduce duplication of effort in this proceeding.

Dated September 17, 2003, at San Francisco, California.

/s/ JOSEPH R. DEULLOA

Joseph R. DeUlloa
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing Notices of Intent to Claim Compensation as Required by Pub. Util. Code § 1804(b) on all parties of record in this proceeding or their attorneys of record.

Dated September 17, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.